

STATE INCOME TAX WITHHOLDING FOR INTERSTATE TRANSPORTATION EMPLOYEES

DECEMBER 3, 1970.—Ordered to be printed

Mr. STAGGERS, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 10634]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10634). To amend the Interstate Commerce Act and the Federal Aviation Act of 1958 in order to exempt certain wages and salaries of employees from withholding for income tax purposes under the laws of States or subdivisions thereof other than the State or subdivision of the employee's residence, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the House bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That part I of the Interstate Commerce Act is amended by redesignating section 26 as section 27 and by inserting before such section a new section as follows:

"EXEMPTION OF CERTAIN COMPENSATION OF EMPLOYEES FROM WITHHOLDING FOR INCOME TAX PURPOSES FOR OTHER THAN STATE OR SUBDIVISION OF RESIDENCE OR STATE OR SUBDIVISION WHEREIN MORE THAN FIFTY PER CENTUM OF COMPENSATION IS EARNED

"SEC. 26. (a) No part of the compensation paid by any railroad, express company, or sleeping car company, subject to the provisions of this part, to an employee (1) who performs his regularly assigned duties as such an employee on a locomotive, car, or other track-borne vehicle in more than one State, or (2) who is engaged principally in maintaining roadways, signals, communications, and structures or in operating motortrucks out

of railroad terminals in more than one State, shall be withheld for income tax purposes pursuant to the laws of any State or subdivision thereof other than the State or subdivision wherein more than 50 per centum of the compensation paid by the carrier to such employee is earned: Provided, however, That if the employee did not earn more than 50 per centum of his compensation from said carrier in any one State or any subdivision thereof during the preceding calendar year, then withholding shall be required only for the State or subdivision of the employee's residence, as shown on the employment records of any such carrier; nor shall any such carrier file any information return or other report for income tax purposes with respect to such compensation with any State or subdivision thereof other than such State or subdivision of residence and the State or subdivision for which the withholding of such tax has been required under this subsection.

"(b)(1) For the purposes of subsection (a)(1), an employee shall be deemed to have earned more than 50 per centum of his compensation in any State or subdivision thereof in which the mileage traveled by him in such State or subdivision is more than 50 per centum of the total mileage traveled by him in the calendar year while so employed.

"(2) For the purposes of subsection (a)(2), an employee shall be deemed to have earned more than 50 per centum of his compensation in any State or subdivision thereof in which the time worked by him in such State or subdivision is more than 50 per centum of the total time worked by him in the calendar year while so employed.

"(c) For the purposes of this section the term 'State' also means the District of Columbia; and the term 'compensation' shall mean all moneys received for services rendered by an employee, as defined in subsection (a) in the performance of his duties and shall include wages and salary."

SEC. 2. (a) Section 202(b) of the Interstate Commerce Act is amended by inserting after "Nothing in this part" a comma and the following: "except as provided in section 226A,".

(b) Part II of the Interstate Commerce Act is amended by inserting after section 226 a new section as follows:

"EXEMPTION OF CERTAIN COMPENSATION OF EMPLOYEES FROM WITHHOLDING FOR INCOME TAX PURPOSES FOR OTHER THAN STATE OR SUBDIVISION OF RESIDENCE OR STATE OR SUBDIVISION WHEREIN MORE THAN FIFTY PER CENTUM OF COMPENSATION IS EARNED

"SEC. 226A. (a) No part of the compensation paid by any motor carrier subject to the provisions of this part, or by any private carrier of property by motor vehicle, to any employee who performs his regularly assigned duties as such an employee on a motor vehicle in more than one State, shall be withheld for income tax purposes pursuant to the laws of any State or subdivision thereof other than the State or subdivision wherein more than 50 per centum of the compensation paid by the carrier to such employee is earned: Provided, however, That if the employee did not earn more than 50 per centum of his compensation from said carrier in any one State or any subdivision thereof during the preceding calendar year, then withholding shall be required only for the State or subdivision of the employee's residence, as shown on the employment records of any such carrier; nor shall such carrier file any information return or other report for income tax purposes with respect to such compensation with any State or subdivision thereof other than such State or subdivision of resi-

dence, and the State or subdivision for which the withholding of such tax has been required under this subsection.

"(b) For the purposes of subsection (a), an employee shall be deemed to have earned more than 50 per centum of his compensation in any State or subdivision in which the mileage traveled by him in such State or subdivision is more than 50 per centum of the total mileage traveled by him in the calendar year while so employed.

"(c) For the purpose of this section the term 'State' also means any possession of the United States or the Commonwealth of Puerto Rico; and the term 'compensation' shall mean all moneys received for services rendered by an employee, as defined in subsection (a) in the performance of his duties and shall include wages and salary."

SEC. 3. (a) Part III of the Interstate Commerce Act is amended by redesignating section 324 as section 325 and by inserting before such section a new section as follows:

"EXEMPTION OF CERTAIN COMPENSATION OF EMPLOYEES FROM REPORTING FOR INCOME TAX PURPOSES FOR OTHER THAN STATE OR SUBDIVISION OF RESIDENCE OR STATE OR SUBDIVISION WHEREIN MORE THAN FIFTY PER CENTUM OF COMPENSATION IS EARNED

"Sec. 324. (a) No water carrier subject to the provisions of this part nor any water carrier or class of water carriers operating on inland or coastal waters under an exemption provided therein shall file any information return or other report for income tax purposes with respect to the compensation paid to any employee who performs his regularly assigned duties as an employee of such carrier in more than one State with any State or subdivision thereof other than the State or subdivision of such employee's residence, as shown on the employment records of such carrier, and the State or subdivision in which such employee earned more than 50 per centum of the compensation paid him by such carrier during the preceding calendar year. The provisions of this section shall also apply with respect to the compensation paid to any master, officer, or seaman who is a member of the crew on a vessel engaged in foreign, coastwise, inter-coastal or noncontiguous trade or in the fisheries of the United States.

"(b) For the purposes of subsection (a), an employee shall be deemed to have earned more than 50 per centum of his compensation in any State or subdivision in which the time worked by him in such State or subdivision is more than 50 per centum of the total time worked by him in the calendar year while so employed.

"(c) For the purpose of this section the term 'compensation' shall mean all moneys received for services rendered by an employee, as defined in subsection (a) in the performance of his duties and shall include wages and salary."

(b) The table of contents contained in section 301 of the Interstate Commerce Act is amended by striking out

"Sec. 324. Separability of provisions."

and inserting in lieu thereof:

"Sec. 324. Exemption of certain compensation of employees from reporting for income tax purposes for other than State or subdivision of residence and State or subdivision wherein more than 50 per centum of compensation is earned.

"Sec. 325. Separability of provisions."

SEC. 4. (a) Title XI of the Federal Aviation Act of 1958 is amended by inserting after section 1111 the following new section:

"EXEMPTION OF CERTAIN COMPENSATION OF EMPLOYEES FROM WITHHOLDING FOR INCOME TAX PURPOSES FOR OTHER THAN STATE OR SUBDIVISION OF RESIDENCE OR STATE OR SUBDIVISION WHEREIN MORE THAN FIFTY PER CENTUM OF COMPENSATION IS EARNED

"SEC. 1112. (a) No part of the compensation paid by any air carrier to an employee who performs his regularly assigned duties as such an employee on an aircraft in more than one State shall be withheld for income tax purposes pursuant to the laws of any State or subdivision thereof other than the State or subdivision wherein more than 50 per centum of the compensation paid by the carrier to such employee is earned: Provided, however, That if the employee did not earn more than 50 per centum of his compensation from said carrier in any one State or subdivision thereof during the preceding calendar year, then withholding shall be required only for the State or subdivision of the employee's residence, as shown on the employment records of any such carrier; nor shall such carrier file any information return or other report for income tax purposes with respect to such compensation with any State or subdivision thereof other than such State or subdivision of residence and the State or subdivision for which the withholding of such tax has been required under this subsection.

"(b) For the purposes of subsection (a), an employee shall be deemed to have earned 50 per centum of his compensation in any State or subdivision in which his scheduled flight time in such State or subdivision is more than 50 per centum of his total scheduled flight time in the calendar year while so employed.

"(c) For the purposes of this section the term 'State' also means the District of Columbia and any of the possessions of the United States, and the term 'compensation' shall mean all moneys received for services rendered by an employee, as defined in subsection (a) in the performance of his duties and shall include wages and salary."

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the heading "Title XI—Miscellaneous" is amended by adding at the end thereof the following:

Sec. 1112. Exemption of certain compensation of employees from withholding for income tax purposes for other than State or subdivision of residence and State or subdivision wherein more than 50 per centum of compensation is earned."

SEC. 5. The amendments made by this Act shall become effective on the first day of the first calendar year beginning after the date of enactment of this Act.

SEC. 6. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of the provision to other persons or other circumstances shall not be affected thereby.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the House bill, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the title of the House bill, insert the following: "An

Act to amend the Interstate Commerce Act and the Federal Aviation Act of 1958 in order to exempt certain compensation of employees from withholding for income tax purposes under the laws of States or subdivisions thereof other than the State or subdivision of residence or the State or subdivision wherein more than 50 per centum of compensation is earned, and for other purposes."

And the Senate agree to the same.

HARLEY O. STAGGERS,
SAMUEL N. FRIEDEL,
JOHN D. DINGELL,
SAMUEL DEVINE,
DAN KUYKENDALL,

Managers on the Part of the House.

WARREN G. MAGNUSON,
VANCE HARTKE,
HOWARD W. CANNON,
WINSTON PROUTY,
HOWARD BAKER,

Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference of the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10634) to amend the Interstate Commerce Act and the Federal Aviation Act of 1958 in order to exempt certain wages and salaries of employees from withholding for income tax purposes under the laws of States or subdivisions thereof other than the State or subdivision of the employee's residence, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate amendments struck out all of the House bill after the enacting clause and inserted a substitute text and provided a new title for the House bill, and the House disagreed to the Senate amendments.

The committee of conference recommends that the House recede from its disagreement to the amendment of the Senate to the text of the House bill, with an amendment which is a substitute for both the text of the House bill and the Senate amendment to the text of the House bill. The committee of conference also recommends that the House recede from its disagreement to the amendment of the Senate to the title of the House bill, with an amendment which is a substitute for both the title of the House bill and the Senate amendment to the title of the House bill.

The differences between the text of the House bill and the substitute agreed to in conference are noted below, except for clerical corrections, and minor drafting and clarifying changes.

MULTIPLE TAX LIABILITY

The House bill dealt only with the withholding and reporting for income tax purposes of compensation paid to transportation employees. The subject of tax liability has been considered in another bill which passed the House of Representatives on June 25, 1969, after being reported from the Committee on the Judiciary (see H.R. 7906, 91st Congress, 1st Session).

The Senate amendment provided that the tax liability of transportation employees should be limited to not more than two States, the State of the employee's residence and the State wherein the employee earned more than 50 percent of his compensation.

The conference substitute follows the House bill and omits any reference to tax liability.

MULTIPLE WITHHOLDING

The House bill provided that only the State of the employee's residence should be permitted to require withholding for income tax purposes.

The Senate amendment provided that the State in which the employee earned more than 50 percent of his compensation could require withholding for income tax purposes, except that, if he did not earn more than 50 percent of his compensation in any one State, then the State of his residence could require withholding for income tax purposes.

The conference substitute follows the Senate amendment and permits either the State in which the employee earned more than 50 percent of his compensation or the State of his residence to withhold for income tax purposes.

FILING INFORMATION RETURNS

The House bill provided that only the State of the employee's residence could require the filing of information returns for income tax purposes.

The Senate amendment provided that both the State of the employee's residence and the State in which he earned more than 50% of his compensation could require the filing of information returns for income tax purposes.

The conference substitute follows the Senate amendment.

COVERAGE OF TRANSPORTATION EMPLOYEES

I. The House bill did not cover certain employees of water carriers operating under exemptions contained in part III of the Interstate Commerce Act (such as barge operators operating under the exemption contained in section 303(b) of such Act).

The Senate amendment provided that employees of water carriers operating under the exemptions referred to above should be covered.

The conference substitute follows the Senate amendment.

II. The House bill provided that employees of fishing vessels and vessels engaged in intercoastal and coastwise trade should be covered.

The Senate amendment did not cover such employees.

The conference substitute follows the House bill.

HARLEY O. STAGGERS,
SAMUEL N. FRIEDEL,
JOHN D. DINGELL,
SAMUEL DEVINE,
DAN KUYKENDALL,

Managers on the Part of the House.



